

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,)	
)	
)	Civil Action No. 08-148 Erie
)	
v.)	Criminal Action No. 01-01 Erie
)	
AARON CEDRIC LONDON ,)	
)	
Defendant.)	

MEMORANDUM OPINION AND ORDER

McLAUGHLIN, SEAN J., J.

Presently pending before the Court is a motion entitled “A Motion For Relief Pursuant to Rule 60(b)(4) thru An Independant Action of The District Court” [Doc. No. 79] filed by Petitioner Aaron Cedric London, and the “Government’s Motion to dismiss Petitioner’s Motion to Vacate under 28 U.S.C. § 2255 As An Unauthorized Second or Successive Petition” [Doc. No. 80]. For the reasons that follow, the Government’s Motion will be granted.

On October 6, 2003, London filed a timely Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255. London claimed that: (1) the United States failed to hand over bank surveillance photographs in violation of Brady v. Maryland, 373 U.S. 83, 87 (1963); (2) trial counsel was ineffective because he failed to obtain exculpatory evidence from the prosecution; and (3) this Court lacked jurisdiction since the offense was not committed on government property. See Motion ¶ 13(b). [Doc. No. 65]. We denied London’s motion on August 11, 2004 and ordered that no certificate of appealability be issued based upon the failure to demonstrate a substantial showing of the denial of a constitutional right. See Memorandum Opinion and Order [Doc. No. 73].

On May 15, 2008, London filed a petition styled “A Motion For Relief Pursuant to Rule 60(b)(4) thru An Independant Action of The District Court” which is treated as the functional equivalent of a second or successive habeas petition. See Gonzalez v. Crosby, 545 U.S. 524 (2005); Pridgen v. Shannon, 380 F.3d 721, 727 (3rd Cir. 2004), cert. denied, 534 U.S. 1155 (2005). Since London has not received authorization from the Third Circuit to file his most recent petition, we lack jurisdiction to entertain it. See 28 U.S.C. § 2255(h); Robinson v.

Johnson, 313 F.3d 128, 139 (3rd Cir. 2002), cert. denied, 540 U.S. 826 (2003).

We shall therefore grant the Government's motion to dismiss without prejudice to London's right to seek authorization from the Third Circuit for this Court to consider a second or successive § 2255 motion.

AND NOW, this 22nd day of August, 2008, for the reasons set forth above, IT IS HEREBY ORDERED that the Government's Motion to Dismiss Petitioner's Motion [Doc. No. 80] is GRANTED.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record.